

Documents on Diplomacy: Resources

Overview of the Lacey Act

16 U.S.C. SS 3371-3378

The Lacey Act, 16 U.S.C. §§ 3371-3378, protects both plants and wildlife by creating civil and criminal penalties for a wide array of violations. Most notably, the Act prohibits trade in wildlife, fish, and plants that have been illegally taken, possessed, transported, or sold. Thus, the Act underscores other, federal, state, and foreign laws protecting wildlife by making it a separate offense to take, possess, transport, or sell wildlife that has been taken in violation of those laws. The Act prohibits the falsification of documents for most shipments of wildlife (a criminal penalty) and prohibits the failure to mark wildlife shipments (civil penalty). The Lacey Act is administered by the Departments of the Interior, Commerce, and Agriculture through their respective agencies. These include the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and Animal and Plant Health Inspection Service.

The Lacey Act was first introduced by Iowa Congressman John Lacey in the House of Representatives in the spring of 1900. It was signed into law by President William McKinley on May 25, 1900. The original Act was directed more at the preservation of game and wild birds by making it a federal crime to poach game in one state with the purpose of selling the bounty in another. It was also concerned with the potential problems of the introduction of non-native, or exotic species of birds and animals into native ecosystems. Finally, it sought to buttress state laws already in existence for the protection of game and birds.

The Lacey Act has been amended several times since its inception in 1900. The most significant ones occurred in 1969, 1981, and 1988. The 1969 amendments expanded to include amphibians, reptiles, mollusks, and crustaceans. The maximum penalty was increased to \$10,000 with possible imprisonment for one year. Additionally, the mental state required for a criminal violation was increased to “knowingly and willfully;” civil penalties were expanded to apply to negligent violations. In 1981, Congress removed the heightened proof standard of “willfully”

from the statute, making “knowingly” the standard. This came in response to an increased illegal trade in fish and wildlife both domestically and abroad. Indigenous plants were also added to the protected species. With regard to penalty, the maximum civil fine was raised to \$10,000 and a bifurcated felony/misdemeanor scheme was created under the statute based on the conduct of the offender and the market value of the species at issue. Under the felony portion of the statute, the maximum penalty was set at \$20,000 and/or five years imprisonment; misdemeanor violations were set at \$10,000 and/or up to one-year imprisonment. The amendments also allowed for warrantless arrest for felony violations under the Act and expansion of the role of federal wildlife agents.

In 1988, the role of guiding or outfitting services were added to cover a new threat to big game species under the ambit of “sale.” Prior to the amendment, big game guides who provided illegal hunts were immune to prosecution for violation based on commercial activity. The amendments also created a separate and distinct violation for the intended falsification of documents pertaining to the exporting, importing, or transporting of wildlife, fish, or plants. The felony provision of this part of the act was amended such that one could be convicted if he or she either knew of the import or export of the species or where he or she was involved in the sale or purchase of wildlife, fish, or plants with a market value greater than \$350.

The Lacey Act now stands as one of the broadest and most comprehensive forces in the federal arsenal to combat wildlife crime. With increasing activity in international and domestic wildlife trafficking, the Act has evolved to become an important weapon to protect animals domestically and abroad.

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